

MONTANA LEGISLATIVE HISTORY

Chapter 456 19 77

Bill H 801 S _____ Original bill & history C

H. Committee on State Administration S. Committee on Local Government

Hearing Date(s) Feb 22 ✓ C

Hearing Date(s) March 21 ✓ C

Feb 23 ✓ C

March 28 ✓ C

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Date Out Feb 23 ✓ C

March 28 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 *House* BILL NO. *801*
2 INTRODUCED BY *Boutanov*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MUNICIPAL
5 POLICE OFFICERS' RETIREMENT SYSTEM AND PROVIDING FOR ITS
6 ADMINISTRATION; AMENDING SECTIONS 11-1823, 11-1825, 11-1826,
7 11-1834, 11-1836, AND 11-1844, R.C.M. 1947; AND REPEALING
8 SECTIONS 11-1821.1, 11-1824, 11-1838, 11-1839, 11-1840,
9 11-1841, 11-1842, 11-1848, 11-1850, 82A-222, AND 82A-223,
10 R.C.M. 1947."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. There is a new R.C.M. section that reads as
14 follows:

15 Short title. This act may be cited as the "Municipal
16 Police Officers' Retirement Act".

17 Section 2. There is a new R.C.M. section that reads as
18 follows:

19 Definitions. Unless the context requires otherwise, the
20 following definitions apply in this act:

21 (1) "Plan" means the municipal police officers'
22 retirement system created by this act.

23 (2) "Prior plan" means the local police reserve or
24 retirement fund of a city which elects to join the plan
25 under [section 26] or the statewide police reserve fund

1 administered by the department of administration in
2 accordance with Chapter 335, Laws of 1974.

3 (3) "Employer" means any city which participated in a
4 prior plan or which elects to join this plan under [section
5 26].

6 (4) "Administrator" means the public employees
7 retirement division of the department of administration.

8 (5) "Board" means the retirement board described in
9 82A-210.

10 (6) "Member" means a person who is employed by an
11 employer as a police officer or who is entitled to a
12 retirement allowance by virtue of his service to an employer
13 as a police officer.

14 (7) "Member contributions" means the total of the
15 deductions from the compensation of a member, either made
16 during a period of active membership hereunder or made under
17 a prior plan and transferred to this plan, standing to his
18 credit, together with the interest thereon.

19 (8) "Monthly compensation" means the amount of the
20 base salary, excluding overtime, holiday payments, shift
21 differential payments, compensation time payments, and
22 payments in lieu of sick leave and annual leave, a member
23 receives as an active police officer.

24 (9) "Final average salary" means the monthly
25 compensation of a member, averaged over the last 36 months

INTRODUCED BILL

1 of his active service or, in the event he has not been a
2 member that long, over the period of his membership.

3 (10) "Prior service" means a period of employment as a
4 police officer for which credit was granted to a member
5 under a prior plan and has been transferred to this plan.

6 (11) "Membership service" means a period of employment
7 with an employer occurring after June 30, 1977, during which
8 the withholdings required by this act have been made from a
9 member's monthly compensation and credited to his member
10 contributions account. Pro rata credit shall be granted for
11 employment on a part-time basis or for employment over a
12 period of less than a complete fiscal year.

13 (12) "Credited service" means the aggregate of a
14 member's prior service and membership service.

15 (13) "Member's annuity" means monthly payments for life
16 derived from member contributions.

17 (14) "Employer annuity" means monthly payments for life
18 derived from employer and state contributions.

19 (15) "Retirement allowance" means the employer annuity
20 plus the member's annuity.

21 (16) "Minimum retirement date" or "normal retirement
22 date" means the first day of the month coinciding with or
23 immediately following, if none coincides, the date on which
24 a member becomes both age 50 or older and completes 20 or
25 more years of credited service.

1 (17) "Mandatory retirement date" means the first day of
2 the month coinciding with or immediately following, if none
3 coincides, the date on which a member attains age 65.

4 (18) "Retirement date" means the date on which the
5 first payment of the retirement, disability, or survivor
6 benefits of a member or a beneficiary is payable.

7 (19) "Totally and permanently disabled" means that the
8 board, upon certification by a licensed and practicing
9 physician, has determined that a member's disability is of
10 such a nature as to permanently impair his ability to
11 discharge his normal duties as a police officer.

12 (20) "Police officer" means a law enforcement officer
13 employed by an employer.

14 (21) "Fund" means the agency account in the treasury
15 system designated for the use of the plan.

16 Section 3. There is a new R.C.M. section that reads as
17 follows:

18 Municipal police officers' retirement system
19 established. A municipal police officers' retirement system
20 is established and shall be governed by the provisions of
21 this act.

22 Section 4. There is a new R.C.M. section that reads as
23 follows:

24 Active membership. (1) A police officer becomes an
25 active member under the plan:

(a) on the date his employment by an employer commences;

(b) on July 1, 1977, if he is employed by an employer on that date; or

(c) in the case of an employer which elects to join the plan as provided in [section 26 of this act], on the effective date of such election if he is employed by the employer on that date.

(2) Upon becoming eligible for membership, he shall complete such forms and furnish such proof as may be required by the board.

(3) No member is eligible to be covered under any other mandatory retirement plan to which an employer is required to contribute on his behalf, except the Social Security Act, while he is eligible to be covered by this plan.

(4) A member is entitled to benefits based upon the entire period of his credited service and final average salary without regard to the number of employers by whom he was employed or the number of periods of his employment so that no duplication of credited service occurs.

Section 5. There is a new R.C.M. section that reads as follows:

Inactive membership. (1) An active member becomes an inactive member upon the occurrence of the earlier of the

following:

(a) the date he ceases to be employed by an employer and becomes entitled to a retirement allowance;

(b) the date of commencement of an approved absence from active duty with an employer of a substantial duration.

(2) An inactive member becomes an active member on the day he returns to active duty with an employer. Upon again becoming an active member, his retirement allowance, if any, shall cease being paid to him until he again becomes an inactive member.

Section 6. There is a new R.C.M. section that reads as follows:

Cessation of membership. A member shall cease to be a member upon the occurrence of the earlier of the following:

(1) the date he withdraws his member contributions in lieu of all other benefits under the plan;

(2) the date of his death.

Section 7. There is a new R.C.M. section that reads as follows:

Employer and state contributions and funding sources.

(1) Employer and state contributions shall be paid to the administrator who shall, as soon as practicable after their receipt, deposit them with the state treasurer.

(2) The state of Montana shall make its contributions through the state auditor out of the premium tax on motor

1 vehicle property and casualty insurance policies. Such
2 payments shall be made annually from the gross premium tax
3 after deduction for cancellations and returned premiums. The
4 administrator shall notify the auditor of the annual
5 compensation paid to all active members during the preceding
6 year and the state's contribution shall be 12% of such
7 compensation.

8 (3) Each employer shall make its contribution on
9 behalf of members through the city treasurer or other
10 appropriate official out of moneys available to the city for
11 such purpose. The employer's contribution shall be 12% of
12 the total monthly compensation paid to all active members
13 during the preceding month and shall be payable monthly to
14 the administrator.

15 (4) (a) It is found and declared by the legislature
16 that many cities operating under prior plans have excess and
17 unfunded liabilities under such prior plans, which
18 liabilities cannot be amortized by the percentage
19 contributions set forth in subsections (2) and (3).

20 (b) The administrator shall, on or before October 1,
21 1977, determine the excess and unfunded liability of each
22 city which participates in the plan created by this act. The
23 determination of the administrator, in the absence of fraud,
24 abuse of discretion, or arithmetic error, is final and
25 binding on each city. Each city found by the administrator

1 to have an excess and unfunded liability under a prior plan,
2 which as of July 1, 1977, is not funded by sums on deposit
3 or funds available for deposit with the administrator, shall
4 pay an additional sum over a period of time to amortize its
5 excess liability as determined by the administrator. If any
6 city and the administrator are unable by January 1, 1978, to
7 negotiate and reduce to writing the terms of an agreement
8 satisfactory to both of them for the city to amortize its
9 excess liability, the administrator shall require such city
10 to pay an additional sum to amortize its excess liability on
11 July 1, 1977 over a period of not more than 40 years.

12 (c) Each city found by the administrator to be paying
13 an amount in excess of the amount necessary to amortize its
14 liabilities under the prior plan and under this act shall
15 receive a credit in the accounts of the administrator for
16 any such excess payments.

17 Section 8. There is a new R.C.M. section that reads as
18 follows:

19 Member contributions. (1) The treasurer or other
20 appropriate official of each employer shall retain from the
21 monthly compensation of each active member a sum equal to 6%
22 of his monthly compensation for his services as a police
23 officer. The monthly deduction from the salaries of police
24 officers shall be paid to the administrator for the purpose
25 of paying the retirement allowances of retired police

1 officers.

2 (2) A member is fully vested in his member
3 contributions at all times and may, at his discretion,
4 withdraw the full amount of his member contributions upon
5 his termination of employment in accordance with [section
6 14] and forfeit all rights and interest with respect to any
7 benefits which would otherwise become payable under the
8 plan.

9 Section 9. There is a new R.C.M. section that reads as
10 follows:

11 Reinstatement after withdrawal of member contributions
12 -- redeposit of amounts withdrawn. (1) Upon reinstatement to
13 active membership, a member may redeposit in the fund, in
14 one lump sum or in installments not to exceed 12 monthly or
15 24 semimonthly installments, an amount equal to the member
16 contributions which he withdrew plus an amount equal to the
17 interest which would have been credited to his account had
18 he not withdrawn his member contributions. If a member makes
19 such a redeposit, his credited service shall be reinstated.

20 (2) If an active member does not elect to make the
21 redeposit provided for in subsection (1), he forfeits his
22 credited service for the period attributable to the
23 withdrawn member contributions.

24 Section 10. There is a new R.C.M. section that reads
25 as follows:

1 Other moneys credited as employer contributions. All
2 gifts, bequests, or emoluments given to an employer or
3 member for the benefit of the plan or because of any
4 member's service as a police officer, except when
5 specifically allowed to be retained by the member by his
6 employer, and all moneys withheld from the monthly
7 compensation of a member for violation of the rules of his
8 employer shall be paid to the administrator. The
9 administrator shall credit them to the fund and, as soon as
10 practicable after their receipt, deposit them with the state
11 treasurer. Such amounts are employer contributions but are
12 in addition to the amounts required by [section 7].

13 Section 11. There is a new R.C.M. section that reads
14 as follows:

15 Application for service retirement. On or after a
16 member's minimum retirement date and prior to his mandatory
17 retirement date, he may retire on a service retirement
18 allowance by making written application to the employer. The
19 employer shall forward the application to the board not less
20 than 30 days or more than 90 days before the elected
21 retirement date. The application shall state the elected
22 retirement date.

23 Section 12. There is a new R.C.M. section that reads
24 as follows:

25 Eligibility for disability retirement. If a member is

1 determined by the board to be totally and permanently
2 disabled, he is entitled to a disability retirement
3 allowance, regardless of the length of his service,
4 commencing as of the first day of the month coinciding with
5 or immediately following, if none coincides, the date on
6 which he became totally and permanently disabled.

7 Section 13. There is a new R.C.M. section that reads
8 as follows:

9 Procedure upon recovery from total and permanent
10 disability. (1) If an inactive member is determined by the
11 board to be no longer totally and permanently disabled, his
12 disability retirement allowance shall cease as of the date
13 of such determination and he shall be notified of the
14 determination by the board. The board may review the status
15 of any inactive member at any time.

16 (2) If the inactive member again becomes an active
17 member by returning to active work for an employer within 30
18 days following receipt of such notice, he shall be
19 considered to have been continuously employed during the
20 term of his disability. If the inactive member fails to
21 become an active member by returning to active work for an
22 employer within 30 days following receipt of such notice,
23 his termination of employment shall be considered to have
24 occurred as of his disability retirement date and the
25 retirement allowance, if any, to which he becomes entitled

1 on his service retirement shall be determined accordingly.

2 Section 14. There is a new R.C.M. section that reads
3 as follows:

4 Termination of employment prior to retirement. (1) Upon
5 termination of the employment of an active member prior to
6 his retirement date, he shall withdraw the amount of his
7 member contributions in lieu of all other benefits under the
8 plan. If he has 10 years or more of service, the amount paid
9 shall include regular interest, at a rate to be determined
10 by the board, on such amounts. If he has less than 10 years
11 of service, he shall receive only the amount paid through
12 salary deductions, without interest. If an active member's
13 employment terminates by reason of his death, his
14 beneficiaries are entitled to the benefits prescribed in
15 [section 16 of this act].

16 Section 15. There is a new R.C.M. section that reads
17 as follows:

18 Retirement allowances to be monthly and fixed. The
19 retirement allowances granted under the provisions of this
20 act shall be paid in monthly installments. They may not be
21 increased or decreased, except as specifically provided
22 herein, or repealed or revoked except by an act of the
23 Montana legislature.

24 Section 16. There is a new R.C.M. section that reads
25 as follows:

1 Death benefits. (1) A member's retirement allowance
2 shall be paid first to the member during his lifetime and,
3 upon his death, in the manner and to the persons designated
4 in subsection (2).

5 (2) Upon the death of a police officer before or after
6 retirement, his surviving spouse, if there is one, shall, as
7 long as such spouse remains the surviving spouse, be paid
8 from the fund a sum equal to one-half of the officer's final
9 average salary. If the officer leaves one or more dependent
10 minor children, then, upon his death if he leaves no
11 surviving spouse or upon the death or remarriage of the
12 surviving spouse, his surviving dependent minor children,
13 collectively if there is more than one, shall receive the
14 same monthly payments a surviving spouse would receive,
15 until they reach the age of 18 years or are married. The
16 payments shall be made to their duly appointed, qualified,
17 and acting guardian for their use. If there is more than one
18 such child, upon each child reaching the age of 18 years or
19 marrying, the pro rata payments to that child shall cease
20 and shall be made to the remaining children until all the
21 children have reached the age of 18 years or are married.

22 Section 17. There is a new R.C.M. section that reads
23 as follows:

24 Retirement benefits exempt from state or municipal tax.
25 Any money received as a retirement allowance in accordance

1 with the provisions of this act is exempt from any state or
2 municipal tax.

3 Section 18. There is a new R.C.M. section that reads
4 as follows:

5 Rights to benefits unassignable — protection from
6 legal process. The benefits payable hereunder are not
7 subject to the claims of any creditor of a member,
8 beneficiary, or survivor or to attachment, garnishment, or
9 other legal or equitable process. No member, beneficiary,
10 or survivor may alienate, anticipate, commute, pledge,
11 encumber, assign, or sell any of such benefits.

12 Section 19. There is a new R.C.M. section that reads
13 as follows:

14 Retirement board — powers and duties. (1) The board is
15 authorized to administer, interpret, and enforce the
16 provisions of this act.

17 (2) The board shall establish such uniform rules as
18 are necessary to administer the provisions of this act. The
19 board is the sole authority under this act as to the
20 conditions under which persons may become members of and
21 receive benefits under the retirement system. The board
22 shall determine and may modify allowances for retirement and
23 disability under this act.

24 (3) The board shall determine whether a member has
25 become totally and permanently disabled and whether the

1 disability is duty-related. In the discharge of its duties
 2 regarding such determination, the board, any member thereof,
 3 or any duly authorized representative of the board may order
 4 medical examinations, conduct hearings, administer oaths and
 5 affirmations, take depositions, certify to official acts,
 6 and issue subpoenas to compel the attendance of witnesses
 7 and the production of books, papers, correspondence,
 8 memoranda, and documents considered necessary as evidence in
 9 connection with the claim for disability retirement. The
 10 board shall secure medical service and advice necessary to
 11 carry out the purposes of this section.

12 (4) Except as otherwise provided in this act, the
 13 department of administration, through the administrator and
 14 the board of investments, shall administer, invest, account
 15 for, and treat the funds deposited with it under this act in
 16 accordance with the rules dealing with the public employees
 17 retirement system, insofar as such rules are not
 18 inconsistent with those promulgated and adopted by the
 19 board. The contributions of the state, employers, and
 20 members paid to the administrator under this act may be
 21 commingled for investment purposes.

22 Section 20. There is a new R.C.M. section that reads
 23 as follows:

24 Retirement account. On July 1, 1977, there will be an
 25 account in the agency fund to be maintained on behalf of the

1 plan. The state treasurer is the custodian of the account
 2 subject to the exclusive administrative control of the
 3 board.

4 Section 21. There is a new R.C.M. section that reads
 5 as follows:

6 Transfer of assets and liabilities from prior plans.
 7 All funds and obligations constituting the assets and
 8 liabilities of prior plans, regardless of their form or who
 9 holds them, shall be transferred to the account provided for
 10 in [section 20 of this act]. The board shall ascertain the
 11 amounts to be apportioned to each account upon the passage
 12 of this act, and the state treasurer shall transfer such
 13 amounts to the appropriate accounts on July 1, 1977.

14 Section 22. There is a new R.C.M. section that reads
 15 as follows:

16 Benefits to members of prior plans. (1) All provisions
 17 of this plan are effective as to a member whose retirement
 18 date occurred prior to July 1, 1977, except the amount and
 19 mode of payment of such member's retirement allowance will
 20 remain unchanged.

21 (2) This act may not decrease the benefits of a member
 22 under a prior plan.

23 Section 23. There is a new R.C.M. section that reads
 24 as follows:

25 Actuarial valuation. The board shall engage the

1 services of a qualified actuary to conduct an actuarial
 2 valuation of the plan in each even-numbered year. It shall
 3 include the actuary's determination of the financial
 4 condition of the plan, the level of annual contributions
 5 required to maintain the plan on an actuarially sound basis,
 6 and, if applicable, the level of annual contributions
 7 required to amortize the excess and unfunded liabilities
 8 described in [section 7](4). A qualified actuary is one who
 9 is a member of the American academy of actuaries or of any
 10 organization considered by the board to have similar
 11 standards.

12 Section 24. There is a new R.C.M. section that reads
 13 as follows:

14 Administrative expenses. The expense of administration
 15 of this act, exclusive of amounts required to be paid as
 16 benefits to or on behalf of a member, shall be borne by the
 17 state and shall be in addition to the amounts required of it
 18 as contributions.

19 Section 25. There is a new R.C.M. section that reads
 20 as follows:

21 Taxing authority of employers. (1) For the purpose of
 22 making contributions required of a city under this act, when
 23 the demand for deposits of such contributions cannot be met
 24 within the general taxing authority and other revenues
 25 available to the city for that purpose, the appropriate

1 authority of the city may levy any additional tax authorized
 2 by law until the general taxing authority and other revenue
 3 available for that purpose is sufficient to meet the demand.

4 (2) "General taxing authority", as used in this
 5 section, means that levy which the city can make under the
 6 all-purpose levy or under multiple-purpose levies, if the
 7 city is using multiple-purpose levies.

8 (3) No provision of any statute relating to the
 9 all-purpose levy may be so construed as to limit the
 10 additional taxing authority created by this section.

11 Section 26. There is a new R.C.M. section that reads
 12 as follows:

13 Election to join plan -- transfer of assets.

14 (1) Cities other than those participating in the statewide
 15 police reserve fund administered by the department of
 16 administration in accordance with Chapter 335, Laws of 1974,
 17 as of June 30, 1977, may elect to join the plan by passing
 18 an ordinance stating the election and the consent of the
 19 city to be bound by the provisions of this act. Upon the
 20 enactment of such an ordinance, the provisions of this act
 21 become applicable to the city. Any city enacting such an
 22 ordinance shall send a certified copy thereof to the board
 23 and shall, as soon as possible thereafter, deposit with the
 24 board all cash and securities held by it in its local police
 25 reserve or retirement fund. The value of the securities

1 shall be determined by the board.

2 (2) The trustees or other administrative head of the
3 local system as of the effective date of the election shall
4 certify the proportion, if any, of the funds of the system
5 that represents the accumulated contributions of the active
6 members and the relative shares of the members as of that
7 date. Such shares shall be charged to the employer and
8 credited to the respective individual accounts of the
9 members in the plan and administered as if the contributions
10 had been made during membership in the plan. Any excess of
11 employer credits over charges under this section will be
12 offset, with interest, against future required employer
13 contributions. Any excess of employer charges over credits
14 under this section are payable by the employer, with
15 interest, on a basis determined by the procedure described
16 in subsections (4)(b) and (4)(c) of [section 7 of this act].

17 Section 27. There is a new R.C.M. section that reads
18 as follows:

19 Penalty for false statements or falsification of
20 records. (1) No person may knowingly make any false
21 statement or permit to be falsified any records of the plan
22 in an attempt to defraud the plan.

23 (2) If any change in records fraudulently made or any
24 mistake in records inadvertently made results in any member,
25 survivor, or beneficiary receiving more or less than he was

1 entitled to, then, on the discovery of the error, the board
2 shall correct the error and adjust the payments to the
3 member, survivor, or beneficiary in an equitable manner.

4 (3) A person who violates any of the provisions of
5 subsection (1) is guilty of a misdemeanor and, upon
6 conviction, shall be punished by a fine not exceeding \$500
7 or imprisonment in the county jail for a term not exceeding
8 6 months, or both.

9 Section 28. There is a new R.C.M. section that reads
10 as follows:

11 Board's authority to refuse to make payments. The board
12 may revoke, refuse to grant, or suspend a member's annuity
13 for disability or death caused by wrongful conduct. If the
14 disability causing a member to retire or the death of a
15 member is directly and proximately caused by the member's
16 immoral or intemperate conduct or gross negligence, the
17 board may refuse to grant, revoke, or suspend the employer
18 annuity.

19 Section 29. There is a new R.C.M. section that reads
20 as follows:

21 Transfer of dormant member contributions to employer's
22 account. The board may, in its discretion, transfer member
23 contributions to the employer's account if the member's
24 contribution account has been dormant for a period of 10
25 years. No right of the member may be jeopardized by such a

transfer, and the member contributions shall be transferred back to the member's name upon his subsequent reinstatement as a member.

Section 30. There is a new R.C.M. section that reads as follows:

Eligibility for service retirement. (1) Members are eligible for retirement and shall retire as provided in this section:

(a) A member who was employed by an employer as a police officer on July 1, 1975, is eligible to receive a service retirement allowance when he has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer, in any capacity or rank. A police officer serving in the United States military in time of war or national emergency shall be given credit in his police record for such service in the same manner as though he were on active police duty.

(b) A member who was or is first employed by an employer as a police officer after July 1, 1975, is eligible to receive a service retirement allowance when he has reached the age of 50 and has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer, in any capacity or rank. He shall receive credit for military service as prescribed in subsection (1)(a).

(c) Police officers, whether first employed before or after July 1, 1975, who reach the age of 65 while in active service shall retire.

(2) A police officer who is eligible for service retirement under subsection (1)(a) or (1)(b) may retire as of the time he becomes eligible or may elect to serve an additional 1 to 10 years as an active police officer, except that he may not elect to serve past his 65th birthday, the mandatory retirement date.

Section 31. There is a new R.C.M. section that reads as follows:

Determination of retirement allowance. Retirement allowances under this act shall be paid out of the fund and shall be determined as follows:

(1) A police officer who is eligible under subsection (1)(a) or (1)(b) of [section 30 of this act] and does not elect to serve any additional years as an active police officer or who is retired under [section 30 of this act](1)(c) prior to reaching 20 years of service shall receive a service retirement allowance equal to one-half his final average salary.

(2) A police officer who is eligible for service retirement after 20 years of service and who elects to serve additional years shall receive the allowance provided for in subsection (1) plus an additional 1% of such allowance per

1 year of additional service, up to a maximum of 60% of the
 2 final average salary. A police officer whose eligibility
 3 depends on [section 30 of this act](1)(b) and who completes
 4 20 years of service before reaching the age of 50 is
 5 considered to have elected to serve an additional year for
 6 each year between the completion of his 20th year of service
 7 and his 50th birthday and shall be paid the additional 1%
 8 for each such year.

9 (3) A police officer who is retired under [section 30
 10 of this act](1)(c) and who was theretofore eligible at his
 11 option to be retired under subsection (1)(a) or (1)(b) of
 12 [section 30 of this act] but elected to serve additional
 13 years shall be paid for the additional years over his
 14 original eligibility at the rate prescribed in subsection
 15 (2).

16 (4) A police officer who is eligible under [section 12
 17 of this act] before completing 20 years of service shall
 18 receive a disability retirement allowance equal to one-half
 19 his average final salary.

20 (5) A police officer who is retired under [section 12
 21 of this act] and who, at the time of his injury or
 22 disability, was eligible at his option to be retired under
 23 subsection(1)(a) or (1)(b) of [section 30 of this act] but
 24 had elected to serve additional years and was then serving
 25 such additional years shall be paid for the additional years

1 at the rate prescribed in subsection (2).

2 Section 32. There is a new R.C.M. section that reads
 3 as follows:

4 Department to provide forms — information from
 5 employers. The department of administration shall prepare
 6 such forms as it finds necessary for the employers to
 7 complete to provide all the information necessary to
 8 administer this act, and the cities shall give the
 9 department of administration all data necessary to carry out
 10 the purpose and intent hereof.

11 Section 33. There is a new R.C.M. section that reads
 12 as follows:

13 Application of reserve and retirement provisions of
 14 prior law. (1) As cities other than those participating in
 15 the statewide police reserve fund provided for in Chapter
 16 335, Laws of 1974, currently have local police reserve
 17 funds, the legislature finds and declares that the law
 18 regarding such funds, although in conflict with this act,
 19 cannot be repealed. It is the express intention of the
 20 legislature to allow two separate and distinct retirement
 21 systems to exist. The first, which includes local police
 22 reserve funds, applies to such cities, other than those of
 23 the first and second class, which wish to adopt it. The
 24 second, created by this act, applies to first and second
 25 class cities, those other cities which wish to adopt it, and

1 any city which has adopted the above-mentioned statewide
2 police reserve fund.

3 (2) The following sections may not be applied in any
4 way to a city operating under the plan created by this act:
5 11-1809, 11-1819, 11-1822, 11-1823, 11-1825, 11-1826,
6 11-1827, 11-1828, 11-1829, 11-1830, 11-1834, 11-1835,
7 11-1836, 11-1837, 11-1843, 11-1844, 11-1845, and 11-1847.

8 Section 34. There is a new R.C.M. section numbered
9 82A-224 that reads as follows:

10 82A-224. Board of trustees abolished functions --
11 transferred. The board of trustees of the police reserve
12 fund of a city which elects to participate in the municipal
13 police officers' retirement system under [section 26 of this
14 act] is abolished as of the time that the transfer of the
15 cash and securities and the certification required by that
16 section is completed. The functions of the board are
17 transferred as of the date of the election to the department
18 of administration and the board, as provided in the
19 Municipal Police Officers Retirement Act.

20 Section 35. Section 11-1823, R.C.M. 1947, is amended
21 to read as follows:

22 "11-1823. Fund for payment of officers on reserve
23 lists -- tax levy. ~~For the purpose of paying the salaries of~~
24 ~~police officers who have been placed upon the reserve list of~~
25 ~~cities under this act, the city or town council, or~~

1 ~~commissioners, shall deposit in the fund monthly an amount~~
2 ~~equal to eleven percent (11%) of the total salaries for the~~
3 ~~preceding month paid to active police officers of that city,~~
4 ~~exclusive of overtime and payments in lieu of sick leave and~~
5 ~~annual leave. Cities having such police reserve funds, not~~
6 ~~cities of the first or second class, which did not elect to~~
7 ~~join the statewide police reserve fund provided for in~~
8 ~~Chapter 335, Laws of 1974, and which have not elected to~~
9 ~~participate in the plan under [section 26 of this act], as of~~
10 ~~the effective date of this act, and not having elected to~~
11 ~~come within the provisions of this act, shall likewise~~
12 ~~deposit in the fund of that city monthly an amount equal to~~
13 ~~eleven percent (11%) of the total salaries, exclusive of~~
14 ~~overtime and payments in lieu of sick leave and annual~~
15 ~~leave, for the preceding month, paid to active police~~
16 ~~officers of that city. Payments made by cities covered by~~
17 ~~this act shall be made by the treasurer of that city to the~~
18 ~~department of administration. In case the demand against the~~
19 ~~city for its deposits in such fund shall be such that it~~
20 ~~cannot be met within the general taxing authority of that~~
21 ~~city, then and in such case an additional levy of not to~~
22 ~~exceed three (3) mills may be made until the general taxing~~
23 ~~authority be sufficient to meet the demand."~~

24 Section 36. Section 11-1825, R.C.M. 1947, is amended
25 to read as follows:

1 "11-1825. Salary deduction for payment of reserve
 2 officers. The treasurer of any incorporated city which has
 3 ~~as of the effective date of this act or which hereafter may~~
 4 create a police reserve fund, shall retain from the monthly
 5 salary of all police officers upon the active list, a sum
 6 equal to six percent (6%) of the monthly compensation paid
 7 each officer for his services as such police officer,
 8 exclusive of overtime and payments made in lieu of sick
 9 leave and annual leave, the said monthly deduction from the
 10 salaries of such police officers, shall be paid into the
 11 ~~police reserve fund in the department of administration, or~~
 12 ~~to the city's police reserve fund, as the case may be for~~
 13 the purpose of paying the salaries of police officers upon
 14 the reserve list."

15 Section 37. Section 11-1826, R.C.M. 1947, is amended
 16 to read as follows:

17 "11-1826. Gifts and moneys to be applied to fund. All
 18 moneys withheld from salaries of police officers for the
 19 violation of rules and regulations of such police
 20 departments, all bequests, gifts or emoluments, paid or
 21 given on account of any extraordinary service of any member
 22 of such police department, except when specifically allowed
 23 to be retained by such officer by the mayor, commissioners
 24 and chief of police, and all moneys derived from the
 25 provisions of this act, shall be placed in the police

1 reserve fund, and transmitted promptly ~~to the department of~~
 2 ~~administration or to the board of trustees, as the case may~~
 3 ~~be."~~

4 Section 38. Section 11-1834, R.C.M. 1947, is amended
 5 to read as follows:

6 "11-1834. Annual state payments to municipality with
 7 police department. At the end of each fiscal year the state
 8 auditor shall issue and deliver to the treasurer of each
 9 city and town in Montana, ~~having which has~~ a police
 10 department ~~and which is not a participant in the municipal~~
 11 ~~police officers' retirement system~~ his warrant for an amount
 12 computed in the same manner as the amount paid (or that
 13 would be paid if an existing relief association met the
 14 legal requirements for payment) to cities and towns for fire
 15 department relief associations pursuant to section 11-1919,
 16 R.C.M. 1947."

17 Section 39. Section 11-1836, R.C.M. 1947, is amended
 18 to read as follows:

19 "11-1836. Credit of payments to police reserve fund --
 20 annual report of board. Every city or town, having a police
 21 reserve fund ~~established under the provisions of the~~
 22 ~~Metropolitan Police Law~~ shall deposit said payment ~~with the~~
 23 ~~department of administration or~~ to the credit of the police
 24 reserve fund of such city or town ~~as the case may be.~~ The
 25 board of trustees of each police officer's reserve fund

shall on or before the first day of April of each year report to the state auditor as to the financial condition of their fund. Payments provided for in this section and the preceding two (2) sections (11-1834, 11-1835) are in addition to those provided for in section 11-1823."

Section 40. Section 11-1844, R.C.M. 1947, is amended to read as follows:

"11-1844. Payment of police reserves. (1) Whenever any policeman or officer shall become transferred from the active list of police officers of any city to the reserve list of that city, he shall thereafter be paid in monthly payments from the ~~funds in this act provided for city's police reserve fund~~, as follows:

(a) For a police officer eligible for the reserve list after twenty (20) years of service under subsection (1) of section 13 [11-1843] of this act, and who does not elect to serve any additional years as an active police officer; or for a police officer eligible for the reserve list after twenty (20) years of service under subsection (2) of section 13 [11-1843] of this act, who has reached his fiftieth year, and who does not elect to serve any additional years as an active police officer; or a police officer who becomes eligible by reason of injury or disability under subsection (4) of section 13 [11-1843] of this act, before reaching twenty (20) years of service; or for a police officer placed

upon the reserve list by reason of reaching his sixty-fifth birthday prior to reaching twenty (20) years of service: a sum equal to one-half (1/2) the base salary, excluding overtime and payments in lieu of sick leave and annual leave he was receiving as an active officer computed on the highest salary received in any one month during the last year of active service.

(b) For a police officer eligible for the reserve list after twenty (20) years who elects to serve additional years, the payment provided in subsection (a) of subsection (1) of this section, to which shall be added an additional one percent (1%) of such sum per year of additional service, up to a maximum of sixty percent (60%) of the base salary, excluding overtime and payment in lieu of sick leave and annual leave, he was receiving as an active officer computed on the highest salary received in any one (1) month during the last year of active service. For the purposes of this act, a police officer whose eligibility depends upon subsection (2) of section 13 [11-1843] of this act, and who completes twenty (20) years of service before reaching the age of fifty (50) years, shall be deemed to have elected to serve additional years for each year between the completion of his twentieth year of service and his fiftieth birthday, and he shall be paid the additional one percent (1%) for each such year.

(c) A policeman who is placed upon the reserve list by reason of reaching his sixty-fifth birthday, but who was theretofore eligible at his option to be placed upon such reserve list under subsections (1) or (2) of section 13 [11-1843] of this act, but elected to serve additional years after such earlier eligibility shall be paid for such additional years over his original eligibility at the same rate as is provided in subsection (a) of subsection (1) of this section.

(d) A police officer placed on the reserve list by reason of injury or disability under subsection 4 of section 13 [11-1843] of this act, and who, at the time of such injury or disability was eligible at his option to be placed on the reserve list under subsections (1) or (2) of section 13 [11-1843] of this act, but had elected to serve additional years, and was then serving such additional years shall be paid for such additional years over his original eligibility at the same rate as is provided in subsection (a) of subsection (1) of this section.

(2) Upon the death of any police officer on the active list or reserve list of any city, his surviving spouse, if there be one, shall, as long as such spouse remains the surviving spouse, be paid from the police reserve fund, a sum equal to one-half (1/2) the base salary, excluding overtime and payments in lieu of sick leave or annual leave

he was receiving as an active officer computed on the highest salary received in any one (1) month during the last year of active service prior to the date of his demise or prior to the date he passed to the reserve list. If the officer leaves dependent minor child or children, then upon his death if he leaves no surviving spouse, or upon the death or remarriage of the surviving spouse, then his surviving dependent minor child or children, collectively if there be more than one (1) dependent minor child surviving, shall be paid the same monthly payments as are herein provided to be paid to the surviving spouse, until the minor child or children reach the age of eighteen (18) years or shall have married. Payments to be made to such minor child or children shall be paid to the duly appointed, qualified and acting guardian of the child or children for the use of such minor or minors, until such minor shall have reached the age of eighteen (18) years or shall have married and in case there is more than one (1) minor child, upon each child reaching the age of eighteen (18) years the pro rata payments to that child shall cease and shall be made to the remaining minor child or children until the youngest child reaches the age of eighteen (18) years or is married."

Section 41. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

4 Section 42. Repealer. Sections 11-1821.1, 11-1824,
5 11-1838, 11-1839, 11-1840, 11-1841, 11-1842, 11-1848,
6 11-1850, 82A-222, and 82A-223, R.C.M. 1947, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 587-77

FISCAL NOTE

Form BD-15

compliance with a written request received February 18, 19 77, there is hereby submitted a Fiscal Note
House Bill 801 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a municipal police officers' retirement system and providing for its administration.

ASSUMPTIONS:

1. This bill creates a new municipal police officers' system from the former statewide policemen reserve fund which was a conglomerate.
2. The employer contributions by the cities (Section 6(3), page 7) is 1% increase from the 11% of gross compensation under the statewide policemen reserve fund.
3. The employer contributions by the state (Section 6(2), page 6) will not increase as the 12% of gross compensation was based on state contribution for FY 76 which was 12.1% of gross compensation.
4. No salary increases are assumed.

FISCAL IMPACT - STATE:

None.

FISCAL IMPACT - LOCAL:

\$46,537 in FY 78 and \$46,537 in FY 79 additional employers' contributions will have to be paid in total by participating cities.

Richard L. Zang
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-23-77

Chairman Brand called the meeting to order at 8:15 a.m., Menahan was excused, and Meyer was absent.

Hargesheimer submitted his summary, see attachment #1.

HB 801-Rep. Bardanouve, sponsor--The League of Cities and Towns and the local police have gotten together and worked out some comprehensive solutions. This will assure that when the present and future police officers of Montana retire, they won't face the possibility of a bankrupt fund. This will assure that there will be money available. It will abolish many local boards, and put the system into a sound administration of pension boards in PERS. It provides a mechanism for unfunded liabilities to be paid off - once these have been paid for, the fund should be in good shape. Larry Nachtsheim brought me some amendments (see attachment #2), and Mizner has one amendment. He reviewed this with me, and I agree with it. This bill has some major changes. (reference explanation in attachment #3) Page 28, line 24 - Following: "such city or town", Insert: "the funds deposited in the police reserve fund of such city or town shall not be invested in any securities or pension plans that do not guarantee the return of the principal or interest when terminated. Except the funds may be invested". When the money isn't there, the taxpayer has to come up with it. This amendment would enable the monies to be invested in banks, savings and loans, or anything that is guaranteed. No stock market speculation except through the state fund. So, I feel that it is a step in the right direction. The funds today are 20 million dollars in debt. The investment program has been involved with us in this. Consider this, and give the cities and towns a chance to catch up.

NACHTSHEIM--This bill was drafted by the League and us. I am pleased with our area of it. I have two amendments (see attachment #2). 11-189 is covered in the bill. Whenever the money exceeds \$5,000, the city shall remit the excess amount to the state for the Board of Investments.

DAN MIZNER, League of Cities and Towns--Not all policemen are with the reserve plan, so there are two funds. Monies in excess of 1% of what the state is paying are still out there.

JACK WILLIAMS, Police Chiefs' Association--We are in favor of funding the reserves. On page 2 - base salary - is this base minimum? Should this be the amount of wage rather than base? If you base this on the last 36 months, it should be clarified to exclude all those presently employed. Some police officers are on a 20 year retirement plan, and some are on a 30 year plan with 50 as the retirement age. I don't understand page 5, lines 12 through 16.

JOAN MAYER, Legislative Council Attorney--This means you can't be receiving money from any other state plan.

NACHTSHEIM--If a policeman retires and goes to another job, this would preclude him from getting any other retirement monies. BRAND--Could we get the PERS language in here. This may not decrease benefits a member has from a prior plan. HARGESHEIMER--The language shows that it applies to the whole act. NACHTSHEIM--Page 23, line 1 - the maximum should be 70% rather than 60%, and line 7 should be 2% rather than 1%. Even if everyone took advantage of this, it would save the retirement fund money, and if they stayed on for 10 years it would balance out any input. The does have a cost to the system and our intention was to straighten up the debit. I think the 36 month thing is a better instigation to stay on. They get to use a higher salary to compute their

benefits. This will keep a man from taking a chief's job, and retiring a month later. MAYER-Page 32, line 2 would only apply to local funds. The purpose of the bill was to reform the statewide system. BARDANOUE-The last portion of the bill is the present law.

TOM HARRISON, Montana Police Protection Asso.--We agree with the 2%. If it remains at 1%, we don't understand the cut off at 30 years. We ask that you consider this. On page 5 I feel there's an ambiguity with someone already employed. July 1, 1977 - everybody now employed would be under this plan exclusively and I would want something to show that present members retain present benefits. Page 5, line 14 -- I don't think it is your intention to eliminate people who are already on another plan. I think this is one of the most responsible bills this session. It makes up for the mistakes of the past. It is one of the most serious problems cities face. In the development of this bill the state was not asked to contribute more -- this was a compromise. This bill provides legislation to fund this, and property taxes will probably go up. It is going to cost some money. We endorse the bill.

OPPONENTS

AL SAMPSON, Montana Firefighters' Asso.--We fear the legislature will put us under a similar plan. This bill cuts the benefits -- due to the difference of the last month's salary, and the last three years. Relative to inflation, this is a substantial cut. There's a clause on disability that drops you off the pension roles but an amendment is addressing this. If you are going to eliminate the possibilities of receiving other benefits, then restrict him from paying for them.

BARDANOUE-There's been good communication between the opponents and proponents. They are trying to put out a fire that may occur in the future. I thought the base salary was the salary they receive. I wasn't aware of the legal terminology here. I hesitate to go back to the last month's retirement. This will cost money someday, and the sooner you put it in the sooner it will accumulate interest - greater than the amount of money put in.

O'CONNELL-Under this the cities will be required to put in their share? BARDANOUE-Yes. RYAN-On page 5, line 3 - shouldn't "employed" be "hired"? MAYER-If you say "hired", the people presently working won't be covered. MIZNER-Small town police may elect to come under this. PERS will have this set up in two years. When you go into 11%, and these guys aren't trained policemen, they are usually night guards, etc. BRAND-They will have to be trained eventually. MIZNER-Yes, but this could be added later, when needed. BARDANOUE-I don't think the small cities would have to pay 30%.

HB 798-Rep. Dussault, sponsor--This bill expresses an idea and concept that I want you to consider seriously. It creates a 20th state agency. State government fulfills a number of functions; and those functions relate directly to the people of Montana. These functions are not always in the view of the public. Part of the intention behind this is to bring into public view those agencies, boards, etc.; and facts about them. Whenever we create an advocacy system, we create a problem. Two years ago, we created laws that set standards of care and treatment relative to commitment to institutions. The Board of Visitors -- where do you put a program like this? The board was designed to insure the rights and care and treatment of disabled persons. How do you put an advocacy board within the very department it is set up to monitor? This time it was stuck in the Governor's office. If there is a group that is to uphold labor standards, you can't put it in the Department of Labor - the department that it would be opposing.

If we take state government seriously, it is important that we create a department specifically for advocacy purposes.

JOANNE WILLIS, Volunteer for the Montana Association for Retarded Citizens--We fully endorse this concept, and this bill.

JÓYCE DE CUNSO, DD Advisory Council, Mental Health Advisory Council We feel this will be much better than the situation that presently exists.

GUS HAMMERLY--(Secretary has no witness statement or other identification)--The bill addresses a very complicated area and we support it.

NANCY LIEN, DD Planning Council--We have \$32,000 to create an Advocacy Board. We have worked on this for two months now, and have had a problem of where to put it. A department or agency such as this would be the perfect place for something like the Board.

DUSSAULT--I didn't know half of these things existed. (She reviewed some of the boards involved in the bill): Citizen's Advocate - now, none of us are so naive as to believe that citizens can advocate against state government when the board is sitting in the Governor's office - this could be his main line of squelching any citizen objections. Some other boards should be here, but they were never created by statute, so they can't really come under this.

TURNER--What's all this about the Indians? DUSSAULT--This was taken from existing law, and transferred to this bill. This is the philosophy of the current boards.

BRAND--The people of Montana had no place to go before the Citizens' Advocate. Whether it is in the Governor's office or not, we are at least trying to help people with their problems.

DUSSAULT--I think it would be a stronger office if it weren't attached to the Governor's office. There is a fiscal note being prepared.

TOWER--How are all of these boards formed - are they appointed? DUSSAULT--It is shown in the bill, it varies. We didn't change any duties - just changed them to this department.

TOWER--We have a consumer protection agency now. Would that be under this also? DUSSAULT--It isn't designated so, I wouldn't object - but there may be some problems.

TURNER--Who are you packing this for? DUSSAULT--A few of us talked about this and came up with the bill.

BRAND--Most of these people will be appointed by the Governor. DUSSAULT--Most commissions and boards are appointed by the Governor, but they can hire their own staff.

DICK DISNEY, Consumer Council--The bill has merit. We have four divisions, and one board for administrative purposes. If you took my board and transferred it, you would also have to transfer Investments, Licensing, and Weights and Measures. Just transferring the Consumer Protection Board, you would take the guts out of my office.

KROPP--Do you see any duplication? DUSSAULT--There shouldn't be. This would bring out - in public view - the boards, bureaus, commissions, etc. that we have. It gives us the opportunity to examine them and see the duplication.

EXECUTIVE SESSION

HB 804--O'Connell moved DO PASS, with Meyer seconding, the motion carried unanimously.

HB 801--BRAND--I want a subcommittee for these amendments. HARGESHEIMER--I could have all of the amendments for them to look at. BRAND--OK, Kanduch (Chairman), Tower, and Rye

HJR 79-COMMITTEE BILL-Campaign Finances Form--BRAND--This is the same form we used to have under the Secretary of State. The dates of filing are still the same because they want to know before and after the election. The form does have to be notarized.

DICK HARGESHEIMER, Legislative Council--The intent of this was to allow those candidates who don't have a lot of contributions to have simpler forms. With a congressional race, you would revert back to Hanson's forms.

ERNIE POST, AFL-CIO--As I promised when we heard the campaign practices laws, I said I would support your resolution. I disagree with line 23 on page 1. If you needed extra pages, you could just attach them. You are tying the hands of the commissioner when you say that one only has to report what you can get on two pages. I support the resolution, but I feel you are restricting the application when you specify the size of the paper and the number of forms.

MAGGIE DAVIS, League of Women Voters--We would request that the forms not be stipulated in the bill.

RYAN--Why do you object to the forms? DAVIS--Because you are directing the commissioner to produce a simplified form in the resolution and with supplying the form, you are keeping him from coming up with a worse or better form.

EXECUTIVE SESSION

HJR 79--The amendments were read. See Committee Report. Tower moved the amendments, motion carried. Meyer made a motion for HJR 79 to be recommended AS AMENDED DO PASS. The motion carried unanimously.

HJR 78--O'Connell moved DO PASS, the motion carried unanimously.

HJR 85--TURNER--I feel this to be unworkable. It doesn't specify who does what. Turner moved DO NOT PASS. The vote failed 7 - 5, with Fedda, Kropp, Smith, Tower and Turner being the only yeses. O'Connell made a motion of DO PASS, the vote was reversed, and the motion passed.

HB 407--Meyer moved the amendments, the motion carried. Robbins moved AS AMENDED, DO PASS, the motion carried.

HB 801--Tower moved the amendments, see attachment #4, motion carried. Fedda moved AS AMENDED, DO PASS, the motion carried with Kropp and Smith voting no.

HB 771--Rep. Dussault presented amendments, see attachment #5--(1) protects any federal funds during the transition period; (2) designation of any state agency for receipt of federal funds; (3) delayed effective date -- it can happen before 1978 if they get it together. I think whatever happens with HB 534, these amendments will clean up this bill.

O'Connell moved the amendments. DUSSAULT--The Board of Visitors' only responsibility is to guarantee good care. There are some problems between the Board of Visitors and SRS. RYAN--Is the Board telling us what is going on? DUSSAULT--Yes, but they have mainly dealt with Warm Springs. BRAND--What happens if this goes through? Will they stay in existence? DUSSAULT--They will stand as they are. RYAN--Do you really believe SRS will be better than what you have now? DUSSAULT--I don't know that there's any

Senate Local Govt March 21

It is merchantable at this time but in a period of 1 to 1 1/2 years it will not be merchantable for anything other than pulp. He urged adoption of this Resolution.

There were no opponents present.

A general discussion by the Committee was held.

DISPOSITION OF HJR 78: Senator Dunkle moved that HJR 78 "Be Concurred In", seconded by Senator Thomas. Motion carried unanimously.

DISCUSSION OF HB 438: Dennis Taylor explained the proposed amendment that have been put before the Committee. No action taken at this time.

CONSIDERATION OF HOUSE BILL 801: Representative Bardonouve appeared before the Committee as chief sponsor of HB 801. He felt this is a milestone in Montana for pensions. At the present time the fund is underfunded by almost 21 million dollars. There are only three cities in Montana that have paid up at the present time. Some cities balance their budget by underfunding the police retirement. This would establish a centralized system for payment of these pensions. It creates a single board responsible for the retirement. The policemen support it but do wish some amendments to the bill. Urges support of this bill.

Larry Nachtsheim from the Department of Administration supplied the Committee with an explanation of what the bill is designed to do. (Attached)

Dan Mizner, Montana League of Cities and Towns. Urged support of the bill.

Jack Williams, Montana Police Chief's Association felt this should have been done a long time ago. He submitted some proposed amendments to this bill and especially stressed an amendment on page 8, line 22 to read the same as page 2, line 20. They would like to see the 1% incentive increased to 2%. This would keep an officer on after 20 years, which in turn, would save the cities money because they would not have to hire a new patrolman, at a cost between \$3500 and \$5000 to train. Also suggested an amendment on page 31, line 7 changing the 60% to 70%.

Alton Hendrickson had been asked what would be the cost consideration if the increase went from 1% to 2%. He stated that the increase would give an incentive to officers to stay on. The contributions would still be made to the fund but the payout periods would be less. He felt there should be an additional contribution if it goes from 1 to 2% to get the system on a sound basis.

Don Judge appeared in favor of the bill. (Testimony attached). He felt that the 36 months should be amended to 12 months on page 2, line 25. He also felt that the policemen had little, if anything, to say on this bill. They support the bill and the amendments proposed by Mr. Williams.

Tom Harrison, representing the Montana Police Protective Association appeared in favor of the bill, especially the exclusion sentence

which Mr. Williams mentioned. He felt the 2% would keep these people on the job and in the service of the public. He felt the 36 months for computation of retirement should be amended to 12 months. He is in favor of the bill with the amendments mentioned.

There were no opponents present.

Representative Bardanoue pointed out in closing that "excluding" is used in the sentence on page 2, line 19. He also stated that this is a reform bill, not one to add cost to the present system. A 1% increase would cost at least \$50,000 more per year.

A general discussion by the committee was held on HB 801.

CONSIDERATION OF HB 659: Representative Lynch appeared on behalf of HB 659 as chief sponsor. It has been amended to include first and second class cities. This would allow a police officer that has been injured to be put in a different job or transferred to another department so that he does not have to use his sick leave. This would only be for accidents that would take less than one week to heal.

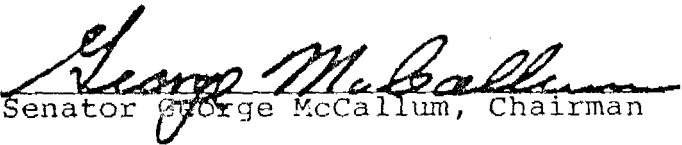
Tom Harrison stated that this would apply only to a city where the force is large enough to do this.

Mr. Williams expressed support for the bill.

Dave Hunter, League of Cities and Towns stated that they are not opposed to the bill but felt it should be left to the locality and the collective bargaining process.

Representative Lynch felt that after what has happened to HB 122, the Local Government Code revision, that it is up to the legislature to take care of this. He expressed hope that the Committee would give this bill a favorable report out of Committee.

ADJOURN: The meeting was adjourned at 10:55 a.m.


Senator George McCallum, Chairman

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 28, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on March 28, 1977 at 9:30 a.m. in Room 410 of the State Capitol Building.

ROLL CALL: Senators Watt and Lockrem absent.

EXECUTIVE SESSION

DISPOSITION OF HOUSE BILL 638. Senator Story moved that HB 638 Be CONCURRED IN, seconded by Peterson. Senator Thiessen made a substitute motion for a call of the committee. Senator Thiessen withdrew his substitute motion and moved that this bill go out of Committee on a WITHOUT RECOMMENDATION. Motion seconded by Thomas. Motion carried.

DISPOSITION OF HOUSE BILL 124: Discussion was held concerning amendments on page 2, lines 4, 5 and 6. Amendments not adopted. Senator Story moved that this BE NOT CONCURRED IN, seconded by Peterson. Motion carried.

DISPOSITION OF HOUSE BILL 438: Discussion was held on proposed amendments to HB 438. Amendments not adopted. Dunkle moved HB 438 BE NOT CONCURRED IN, seconded by Thiessen. Motion carried unanimously.

DISPOSITION OF HOUSE BILL 801: Dunkle moved that HB 801 be amended (page 8, section 8, line 22, following "compensation", by inserting ", excluding overtime, holiday payments, shift differential payments compensation time payments, and payments in lieu of sick leave and annual leave,". Motion seconded by Thomas. Motion carried unanimously.

Senator Dunkle moved that page 2, line 25 be amended by striking "36" and inserting "12". After discussion Dunkle withdrew his motion and moved that page 2, line 25 be amended by striking "36" and inserting "18".

Senator Thomas made a substitute motion that the "36" be amended to "24". Senator Dunkle withdrew his motion and seconded Thomas' motion. Senator Thomas then withdrew his motion, therefore there were no motions before the Committee.

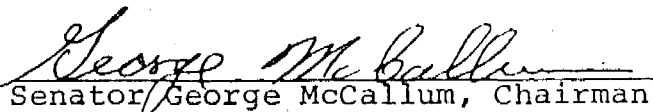
Dunkle then moved that "36" be amended to "12", motion seconded by Peterson. Dunkle withdrew this motion and moved that "36" be amended to "24". On a vote it was 3-2. Motion failed.

Senator Dunkle moved that page 23, line 14, and page 23, line 21, be amended from 1% to 2% and from 60% to 70%. Senator Thiessen then made a substitute motion for all pending motions that HB 801 BE CONCURRED IN AS AMENDED. Senator Thiessen withdrew his motion to vote on Senator Dunkle's original motion. Motion failed.

Senator Thiessen moved that HB 801 AS SO AMENDED, BE CONCURRED IN. Seconded by Thomas. Motion carried with Dunkle voting "no".

DISPOSITION OF HOUSE BILL 537: Senator Thomas moved that HB 537 BE CONCURRED IN. Senator Dunkle made a substitute motion that HB 537 BE NOT CONCURRED IN. Motion seconded by Peterson. Senator Thiessen seconded Thomas' motion. Motion carried.

DISPOSITION OF HOUSE BILL 748: Senator Thomas moved that HB 748 BE CONCURRED IN. Motion seconded by Thiessen. Dunkle made a substitute motion that HB 748 BE NOT CONCURRED IN. Story seconded the substitute motion. Substitute motion carried unanimously.



Senator George McCallum, Chairman

1 HOUSE BILL NO. 801
2 INTRODUCED BY BARDANOUVE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MUNICIPAL
5 POLICE OFFICERS' RETIREMENT SYSTEM AND PROVIDING FOR ITS
6 ADMINISTRATION; AMENDING SECTIONS 11-1823, 11-1825, 11-1826,
7 11-1834, 11-1836, AND 11-1844, R.C.M. 1947; AND REPEALING
8 SECTIONS 11-1821.1, 11-1824, 11-1838, 11-1839, 11-1840,
9 11-1841, 11-1842, 11-1848, 11-1850, 82A-222, AND 82A-223,
10 R.C.M. 1947."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 Section 1. There is a new R.C.M. section that reads as
14 follows:
15 Short title. This act may be cited as the "Municipal
16 Police Officers' Retirement Act".
17 Section 2. There is a new R.C.M. section that reads as
18 follows:
19 Definitions. Unless the context requires otherwise, the
20 following definitions apply in this act:
21 (1) "Plan" means the municipal police officers'
22 retirement system created by this act.
23 (2) "Prior plan" means the local police reserve or
24 retirement fund of a city which elects to join the plan
25 under [section 26] or the statewide police reserve fund

1 administered by the department of administration in
2 accordance with Chapter 335, Laws of 1974.
3 (3) "Employer" means any city which participated in a
4 prior plan or which elects to join this plan under [section
5 26].
6 (4) "Administrator" means the public employees
7 retirement division of the department of administration.
8 (5) "Board" means the retirement board described in
9 82A-210.
10 (6) "Member" means a person who is employed by an
11 employer as a police officer or who is entitled to a
12 retirement allowance by virtue of his service to an employer
13 as a police officer.
14 (7) "Member contributions" means the total of the
15 deductions from the compensation of a member, either made
16 during a period of active membership hereunder or made under
17 a prior plan and transferred to this plan, standing to his
18 credit, together with the interest thereon.
19 (8) "Monthly compensation" means ~~the amount of the~~
20 ~~base salary~~ WAGE, excluding overtime, holiday payments,
21 shift differential payments, compensation time payments, and
22 payments in lieu of sick leave and annual leave, a member
23 receives as an active police officer.
24 (9) "Final average salary" means the monthly
25 compensation of a member, averaged over the last 36 months

1 of his active service or, in the event he has not been a
2 member that long, over the period of his membership.

3 (10) "Prior service" means a period of employment as a
4 police officer for which credit was granted to a member
5 under a prior plan and has been transferred to this plan.

6 (11) "Membership service" means a period of employment
7 with an employer occurring after June 30, 1977, during which
8 the withholdings required by this act have been made from a
9 member's monthly compensation and credited to his member
10 contributions account. Pro rata credit shall be granted for
11 employment on a part-time basis or for employment over a
12 period of less than a complete fiscal year.

13 (12) "Credited service" means the aggregate of a
14 member's prior service and membership service.

15 (13) "Member's annuity" means monthly payments for life
16 derived from member contributions.

17 (14) "Employer annuity" means monthly payments for life
18 derived from employer and state contributions.

19 (15) "Retirement allowance" means the employer annuity
20 plus the member's annuity.

21 (16) "Minimum retirement date" or "normal retirement
22 date" means the first day of the month coinciding with or
23 immediately following, if none coincides, the date on which
24 a member becomes both age 50 or older and completes 20 or
25 more years of credited service.

1 (17) "Mandatory retirement date" means the first day of
2 the month coinciding with or immediately following, if none
3 coincides, the date on which a member attains age 65.

4 (18) "Retirement date" means the date on which the
5 first payment of the retirement, disability, or survivor
6 benefits of a member or a beneficiary is payable.

7 (19) "Totally and permanently disabled" means that the
8 board, upon certification by a licensed and practicing
9 physician, has determined that a member's disability is of
10 such a nature as to permanently impair his ability to
11 discharge his normal duties as a police officer.

12 (20) "Police officer" means a law enforcement officer
13 employed by an employer.

14 (21) "Fund" means the agency account in the treasury
15 system designated for the use of the plan.

16 Section 3. There is a new R.C.M. section that reads as
17 follows:

18 Municipal police officers' retirement system
19 established. A municipal police officers' retirement system
20 is established and shall be governed by the provisions of
21 this act.

22 Section 4. There is a new R.C.M. section that reads as
23 follows:

24 Active membership. (1) A police officer becomes an
25 active member under the plan:

1 (a) on the date his employment by an employer
2 commences;

3 (b) on July 1, 1977, if he is employed by an employer
4 on that date; or

5 (c) in the case of an employer which elects to join
6 the plan as provided in [section 26 of this act], on the
7 effective date of such election if he is employed by the
8 employer on that date.

9 (2) Upon becoming eligible for membership, he shall
10 complete such forms and furnish such proof as may be
11 required by the board.

12 (3) No ACTIVE member is eligible to be covered under
13 any other mandatory retirement plan FOR POLICE SERVICE to
14 which an employer is required to contribute on his behalf,
15 except the Social Security Act, while he is eligible to be
16 covered by this plan.

17 (4) A member is entitled to benefits based upon the
18 entire period of his credited service and final average
19 salary without regard to the number of employers by whom he
20 was employed or the number of periods of his employment so
21 that no duplication of credited service occurs.

22 Section 5. There is a new R.C.M. section that reads as
23 follows:

24 Inactive membership. (1) An active member becomes an
25 inactive member upon the occurrence of the earlier of the

1 following:

2 (a) the date he ceases to be employed by an employer
3 and becomes entitled to a retirement allowance;

4 (b) the date of commencement of an approved absence
5 from active duty with an employer of a substantial duration.

6 (2) An inactive member becomes an active member on the
7 day he returns to active duty with an employer. Upon again
8 becoming an active member, his retirement allowance, if any,
9 shall cease being paid to him until he again becomes an
10 inactive member.

11 Section 6. There is a new R.C.M. section that reads as
12 follows:

13 Cessation of membership. A member shall cease to be a
14 member upon the occurrence of the earlier of the following:

15 (1) the date he withdraws his member contributions in
16 lieu of all other benefits under the plan;

17 (2) the date of his death.

18 Section 7. There is a new R.C.M. section that reads as
19 follows:

20 Employer and state contributions and funding sources.

21 (1) Employer and state contributions shall be paid to the
22 administrator who shall, as soon as practicable after their
23 receipt, deposit them with the state treasurer.

24 (2) The state of Montana shall make its contributions
25 through the state auditor out of the premium tax on motor

1 vehicle property and casualty insurance policies. Such
 2 payments shall be made annually from the gross premium tax
 3 after deduction for cancellations and returned premiums. The
 4 administrator shall notify the auditor of the annual
 5 compensation paid to all active members during the preceding
 6 year and the state's contribution shall be 12% of such
 7 compensation.

8 (3) Each employer shall make its contribution on
 9 behalf of members through the city treasurer or other
 10 appropriate official out of moneys available to the city for
 11 such purpose. The employer's contribution shall be 12% of
 12 the total monthly compensation paid to all active members
 13 during the preceding month and shall be payable monthly to
 14 the administrator.

15 (4) (a) It is found and declared by the legislature
 16 that many cities operating under prior plans have excess and
 17 unfunded liabilities under such prior plans, which
 18 liabilities cannot be amortized by the percentage
 19 contributions set forth in subsections (2) and (3).

20 (b) The administrator shall, on or before October 1,
 21 1977, determine the excess and unfunded liability of each
 22 city which participates in the plan created by this act. The
 23 determination of the administrator, in the absence of fraud,
 24 abuse of discretion, or arithmetic error, is final and
 25 binding on each city. Each city found by the administrator

1 to have an excess and unfunded liability under a prior plan,
 2 which as of July 1, 1977, is not funded by sums on deposit
 3 or funds available for deposit with the administrator, shall
 4 pay an additional sum over a period of time to amortize its
 5 excess liability as determined by the administrator. If any
 6 city and the administrator are unable by January 1, 1978, to
 7 negotiate and reduce to writing the terms of an agreement
 8 satisfactory to both of them for the city to amortize its
 9 excess liability, the administrator shall require such city
 10 to pay an additional sum to amortize its excess liability on
 11 Jul, 1, 1977, over a period of not more than 40 years.

12 (c) Each city found by the administrator to be paying
 13 an amount in excess of the amount necessary to amortize its
 14 liabilities under the prior plan and under this act shall
 15 receive a credit in the accounts of the administrator for
 16 any such excess payments.

17 Section 8. There is a new R.C.M. section that reads as
 18 follows:

19 Member contributions. (1) The treasurer or other
 20 appropriate official of each employer shall retain from the
 21 monthly compensation of each active member a sum equal to 6%
 22 of his monthly compensation, EXCLUDING OVERTIME, HOLIDAY
 23 PAYMENTS, SHIFT DIFFERENTIAL PAYMENTS, COMPENSATION TIME
 24 PAYMENTS, AND PAYMENTS IN LIEU OF SICK LEAVE AND ANNUAL
 25 LEAVE, for his services as a police officer. The monthly

1 deduction from the salaries of police officers shall be paid
2 to the administrator for the purpose of paying the
3 retirement allowances of retired police officers.

4 (2) A member is AT ALL TIMES fully vested in his
5 ~~member--contributions--at-all-times~~ THE DEDUCTIONS MADE FROM
6 HIS COMPENSATION AS A MEMBER OR AS A MEMBER OF A PRIOR PLAN
7 STANDING TO HIS CREDIT and may, at his discretion, withdraw
8 the full amount of ~~his member contributions~~ THESE DEDUCTIONS
9 upon his termination of employment in accordance with
10 [section 14] and forfeit all rights and interest with
11 respect to any benefits which would otherwise become payable
12 under the plan.

13 Section 9. There is a new R.C.M. section that reads as
14 follows:

15 Reinstatement after withdrawal of member contributions
16 -- redeposit of amounts withdrawn. (1) Upon reinstatement to
17 active membership, a member may redeposit in the fund, in
18 one lump sum or in installments not to exceed 12 monthly or
19 24 semimonthly installments, an amount equal to the member
20 contributions which he withdrew plus an amount equal to the
21 interest which would have been credited to his account had
22 he not withdrawn his member contributions. If a member makes
23 such a redeposit, his credited service shall be reinstated.

24 (2) If an active member does not elect to make the
25 redeposit provided for in subsection (1), he forfeits his

1 credited service for the period attributable to the
2 withdrawn member contributions.

3 Section 10. There is a new R.C.M. section that reads
4 as follows:

5 Other moneys credited as employer contributions. All
6 gifts, bequests, or emoluments given to an employer or
7 member for the benefit of the plan or because of any
8 member's service as a police officer, except when
9 specifically allowed to be retained by the member by his
10 employer, and all moneys withheld from the monthly
11 compensation of a member for violation of the rules of his
12 employer shall be paid to the administrator. The
13 administrator shall credit them to the fund and, as soon as
14 practicable after their receipt, deposit them with the state
15 treasurer. Such amounts are employer contributions but are
16 in addition to the amounts required by [section 7].

17 Section 11. There is a new R.C.M. section that reads
18 as follows:

19 Application for service retirement. On or after a
20 member's minimum retirement date and prior to his mandatory
21 retirement date, he may retire on a service retirement
22 allowance by making written application to the employer. The
23 employer shall forward the application to the board not less
24 than 30 days or more than 90 days before the elected
25 retirement date. The application shall state the elected

1 retirement date.

2 Section 12. There is a new R.C.M. section that reads
3 as follows:

4 Eligibility for disability retirement. If a member is
5 determined by the board to be totally and permanently
6 disabled, he is entitled to a disability retirement
7 allowance, regardless of the length of his service,
8 commencing as of the first day of the month coinciding with
9 or immediately following, if none coincides, the date on
10 which he became totally and permanently disabled.

11 Section 13. There is a new R.C.M. section that reads
12 as follows:

13 Procedure upon recovery from total and permanent
14 disability. (1) If an inactive member is determined by the
15 board to be no longer totally and permanently disabled, his
16 disability retirement allowance shall cease as of the date
17 of such determination and he shall be notified of the
18 determination by the board. The board may review the status
19 of any inactive member at any time.

20 (2) ANY INACTIVE MEMBER WHOSE DISABILITY RETIREMENT
21 ALLOWANCE IS SO CANCELLED SHALL BE REINSTATED TO THE
22 POSITION HELD BY HIM IMMEDIATELY BEFORE HIS RETIREMENT OR TO
23 A POSITION IN THE SAME CLASSIFICATION WITH DUTIES WITHIN HIS
24 CAPACITY. THE BOARD SHALL ADVISE THE EMPLOYER THAT THE
25 DISABILITY RETIREMENT ALLOWANCE HAS BEEN CANCELLED AND THAT

1 THE INACTIVE MEMBER IS ELIGIBLE FOR REINSTATEMENT TO DUTY.
2 THE FACT THAT HE WAS RETIRED FOR DISABILITY MAY NOT
3 PREJUDICE ANY RIGHT TO REINSTATEMENT TO DUTY WHICH THE
4 INACTIVE MEMBER MAY HAVE OR CLAIM TO HAVE.

5 ~~(2)(3)~~ If the inactive member again becomes an active
6 member by returning to active work for an employer within 30
7 days following receipt of such notice HIS RECEIPT OF NOTICE
8 UNDER SUBSECTION (1), he shall be considered to have been
9 continuously employed during the term of his disability. If
10 the inactive member fails to become an active member by
11 returning to active work for an employer within 30 days
12 following receipt of such notice, his termination of
13 employment shall be considered to have occurred as of his
14 disability retirement date and the retirement allowance, if
15 any, to which he becomes entitled on his service retirement
16 shall be determined accordingly.

17 Section 14. There is a new R.C.M. section that reads
18 as follows:

19 Termination of employment prior to retirement. (1) Upon
20 termination of the employment of an active member prior to
21 his retirement date, he shall withdraw the amount of his
22 member contributions in lieu of all other benefits under the
23 plan. If he has 10 years or more of service, the amount paid
24 shall include regular interest, at a rate to be determined
25 by the board, on such amounts. If he has less than 10 years

1 of service, he shall receive only the amount paid through
 2 salary deductions, without interest. If an active member's
 3 employment terminates by reason of his death, his
 4 beneficiaries are entitled to the benefits prescribed in
 5 [section 16 of this act].

6 Section 15. There is a new R.C.M. section that reads
 7 as follows:

8 Retirement allowances to be monthly and fixed. The
 9 retirement allowances granted under the provisions of this
 10 act shall be paid in monthly installments. They may not be
 11 increased or decreased, except as specifically provided
 12 herein, or repealed or revoked except by an act of the
 13 Montana legislature.

14 Section 16. There is a new R.C.M. section that reads
 15 as follows:

16 Death benefits. (1) A member's retirement allowance
 17 shall be paid first to the member during his lifetime and,
 18 upon his death, in the manner and to the persons designated
 19 in subsection (2).

20 (2) Upon the death of a police officer before or after
 21 retirement, his surviving spouse, if there is one, shall, as
 22 long as such spouse remains the surviving spouse, be paid
 23 from the fund a sum equal to one-half of the officer's final
 24 average salary. If the officer leaves one or more dependent
 25 minor children, then, upon his death if he leaves no

1 surviving spouse or upon the death or remarriage of the
 2 surviving spouse, his surviving dependent minor children,
 3 collectively if there is more than one, shall receive the
 4 same monthly payments a surviving spouse would receive,
 5 until they reach the age of 18 years or are married. The
 6 payments shall be made to their duly appointed, qualified,
 7 and acting guardian for their use. If there is more than one
 8 such child, upon each child reaching the age of 18 years or
 9 marrying, the pro rata payments to that child shall cease
 10 and shall be made to the remaining children until all the
 11 children have reached the age of 18 years or are married.

12 Section 17. There is a new R.C.M. section that reads
 13 as follows:

14 Retirement benefits exempt from state or municipal tax.
 15 Any money received as a retirement allowance in accordance
 16 with the provisions of this act is exempt from any state or
 17 municipal tax.

18 Section 18. There is a new R.C.M. section that reads
 19 as follows:

20 Rights to benefits unassignable -- protection from
 21 legal process. The benefits payable hereunder are not
 22 subject to the claims of any creditor of a member,
 23 beneficiary, or survivor or to attachment, garnishment, or
 24 other legal or equitable process. No member, beneficiary,
 25 or survivor may alienate, anticipate, commute, pledge,

1 encumber, assign, or sell any of such benefits.

2 Section 19. There is a new R.C.M. section that reads
3 as follows:

4 Retirement board -- powers and duties. (1) The board is
5 authorized to administer, interpret, and enforce the
6 provisions of this act.

7 (2) The board shall establish such uniform rules as
8 are necessary to administer the provisions of this act. The
9 board is the sole authority under this act as to the
10 conditions under which persons may become members of and
11 receive benefits under the retirement system. The board
12 shall determine and may modify allowances for retirement and
13 disability under this act.

14 (3) The board shall determine whether a member has
15 become totally and permanently disabled and whether the
16 disability is duty-related. In the discharge of its duties
17 regarding such determination, the board, any member thereof,
18 or any duly authorized representative of the board may order
19 medical examinations, conduct hearings, administer oaths and
20 affirmations, take depositions, certify to official acts,
21 and issue subpoenas SUBPOENAS to compel the attendance of
22 witnesses and the production of books, papers,
23 correspondence, memoranda, and documents considered
24 necessary as evidence in connection with the claim for
25 disability retirement. The board shall secure medical

1 service and advice necessary to carry out the purposes of
2 this section.

3 (4) Except as otherwise provided in this act, the
4 department of administration, through the administrator and
5 the board of investments, shall administer, invest, account
6 for, and treat the funds deposited with it under this act in
7 accordance with the rules dealing with the public employees
8 retirement system, insofar as such rules are not
9 inconsistent with those promulgated and adopted by the
10 board. The contributions of the state, employers, and
11 members paid to the administrator under this act may be
12 commingled for investment purposes.

13 Section 20. There is a new R.C.M. section that reads
14 as follows:

15 Retirement account. On July 1, 1977, there will be an
16 account in the agency fund to be maintained on behalf of the
17 plan. The state treasurer is the custodian of the account
18 subject to the exclusive administrative control of the
19 board.

20 Section 21. There is a new R.C.M. section that reads
21 as follows:

22 Transfer of assets and liabilities from prior plans.
23 All funds and obligations constituting the assets and
24 liabilities of prior plans, regardless of their form or who
25 holds them, shall be transferred to the account provided for

1 in [section 20 of this act]. The board shall ascertain the
2 amounts to be apportioned to each account upon the passage
3 of this act, and the state treasurer shall transfer such
4 amounts to the appropriate accounts on July 1, 1977.

5 Section 22. There is a new R.C.M. section that reads
6 as follows:

7 Benefits to members of prior plans. (1) All provisions
8 of this plan are effective as to a member whose retirement
9 date occurred prior to July 1, 1977, except the amount and
10 mode of payment of such member's retirement allowance will
11 remain unchanged.

12 (2) This act may not decrease the benefits of a member
13 under a prior plan.

14 Section 23. There is a new R.C.M. section that reads
15 as follows:

16 Actuarial valuation. The board shall engage the
17 services of a qualified actuary to conduct an actuarial
18 valuation of the plan in each even-numbered year. It shall
19 include the actuary's determination of the financial
20 condition of the plan, the level of annual contributions
21 required to maintain the plan on an actuarially sound basis,
22 and, if applicable, the level of annual contributions
23 required to amortize the excess and unfunded liabilities
24 described in [section 7](4). A qualified actuary is one who
25 is a member of the American academy of actuaries or of any

1 organization considered by the board to have similar
2 standards.

3 Section 24. There is a new R.C.M. section that reads
4 as follows:

5 Administrative expenses. The expense of administration
6 of this act, exclusive of amounts required to be paid as
7 benefits to or on behalf of a member, shall be borne by the
8 state and shall be in addition to the amounts required of it
9 as contributions.

10 Section 25. There is a new R.C.M. section that reads
11 as follows:

12 Taxing authority of employers. (1) For the purpose of
13 making contributions required of a city under this act, when
14 the demand for deposits of such contributions cannot be met
15 within the general taxing authority and other revenues
16 available to the city for that purpose, the appropriate
17 authority of the city may levy any additional tax authorized
18 by law until the general taxing authority and other revenue
19 available for that purpose is sufficient to meet the demand.

20 (2) "General taxing authority", as used in this
21 section, means that levy which the city ~~can~~ MAY make under
22 the all-purpose levy or under multiple-purpose levies, if
23 the city is using multiple-purpose levies.

24 (3) No provision of any statute relating to the
25 all-purpose levy may be so construed as to limit the

1 additional taxing authority created by this section.

2 Section 26. There is a new R.C.M. section that reads
3 as follows:

4 Election to join plan -- transfer of assets.

5 (1) Cities other than those participating in the statewide
6 police reserve fund administered by the department of
7 administration in accordance with Chapter 335, Laws of 1974,
8 as of June 30, 1977, may elect to join the plan by passing
9 an ordinance stating the election and the consent of the
10 city to be bound by the provisions of this act. Upon the
11 enactment of such an ordinance, the provisions of this act
12 become applicable to the city. Any city enacting such an
13 ordinance shall send a certified copy thereof to the board
14 and shall, as soon as possible thereafter, deposit with the
15 board all cash and securities held by it in its local police
16 reserve or retirement fund. The value of the securities
17 shall be determined by the board.

18 (2) The trustees or other administrative head of the
19 local system as of the effective date of the election shall
20 certify the proportion, if any, of the funds of the system
21 that represents the accumulated contributions of the active
22 members and the relative shares of the members as of that
23 date. Such shares shall be charged to the employer and
24 credited to the respective individual accounts of the
25 members in the plan and administered as if the contributions

1 had been made during membership in the plan. Any excess of
2 employer credits over charges under this section will be
3 offset, with interest, against future required employer
4 contributions. Any excess of employer charges over credits
5 under this section are payable by the employer, with
6 interest, on a basis determined by the procedure described
7 in subsections (4)(b) and (4)(c) of [section 7 of this act].

8 Section 27. There is a new R.C.M. section that reads
9 as follows:

10 Penalty for false statements or falsification of
11 records. (1) No person may knowingly make any false
12 statement or permit to be falsified any records of the plan
13 in an attempt to defraud the plan.

14 (2) If any change in records fraudulently made or any
15 mistake in records inadvertently made results in any member,
16 survivor, or beneficiary receiving more or less than he was
17 entitled to, then, on the discovery of the error, the board
18 shall correct the error and adjust the payments to the
19 member, survivor, or beneficiary in an equitable manner.

20 (3) A person who violates any of the provisions of
21 subsection (1) is guilty of a misdemeanor and, upon
22 conviction, shall be punished by a fine not exceeding \$500
23 or imprisonment in the county jail for a term not exceeding
24 6 months, or both.

25 Section 28. There is a new R.C.M. section that reads

1 as follows:

2 Board's authority to refuse to make payments. The board
3 may revoke, refuse to grant, or suspend a member's annuity
4 for disability or death caused by wrongful conduct. If the
5 disability causing a member to retire or the death of a
6 member is directly and proximately caused by the member's
7 immoral or intemperate conduct or gross negligence, the
8 board may refuse to grant, revoke, or suspend the employer
9 annuity.

10 Section 29. There is a new R.C.M. section that reads
11 as follows:

12 Transfer of dormant member contributions to employer's
13 account. The board may, in its discretion, transfer member
14 contributions to the employer's account if the member's
15 contribution account has been dormant for a period of 10
16 years. No right of the member may be jeopardized by such a
17 transfer, and the member contributions shall be transferred
18 back to the member's name upon his subsequent reinstatement
19 as a member.

20 Section 30. There is a new R.C.M. section that reads
21 as follows:

22 Eligibility for service retirement. (1) Members are
23 eligible for retirement and shall retire as provided in this
24 section:

25 (a) A member who was employed by an employer as a

1 police officer on July 1, 1975, is eligible to receive a
2 service retirement allowance when he has completed 20 years
3 or more in the aggregate as a probationary officer, a
4 regular officer, or a special officer, in any capacity or
5 rank. A police officer serving in the United States military
6 in time of war or national emergency shall be given credit
7 in his police record for such service in the same manner as
8 though he were on active police duty.

9 (b) A member who was or is first employed by an
10 employer as a police officer after July 1, 1975, is eligible
11 to receive a service retirement allowance when he has
12 reached the age of 50 and has completed 20 years or more in
13 the aggregate as a probationary officer, a regular officer,
14 or a special officer, in any capacity or rank. He shall
15 receive credit for military service as prescribed in
16 subsection (1)(a).

17 (c) Police officers, whether first employed before or
18 after July 1, 1975, who reach the age of 65 while in active
19 service shall retire.

20 (2) A police officer who is eligible for service
21 retirement under subsection (1)(a) or (1)(b) may retire as
22 of the time he becomes eligible or may elect to serve an
23 additional 1 to 10 years as an active police officer, except
24 that he may not elect to serve past his 65th birthday, the
25 mandatory retirement date.

1 Section 31. There is a new R.C.M. section that reads
2 as follows:

3 Determination of retirement allowance. Retirement
4 allowances under this act shall be paid out of the fund and
5 shall be determined as follows:

6 (1) A police officer who is eligible under subsection
7 (1)(a) or (1)(b) of [section 30 of this act] and does not
8 elect to serve any additional years as an active police
9 officer or who is retired under [section 30 of this
10 act](1)(c) prior to reaching 20 years of service shall
11 receive a service retirement allowance equal to one-half his
12 final average salary.

13 (2) A police officer who is eligible for service
14 retirement after 20 years of service and who elects to serve
15 additional years shall receive the allowance provided for in
16 subsection (1) plus an additional 1% of such allowance per
17 year of additional service, up to a maximum of 60% of the
18 final average salary. A police officer whose eligibility
19 depends on [section 30 of this act](1)(b) and who completes
20 20 years of service before reaching the age of 50 is
21 considered to have elected to serve an additional year for
22 each year between the completion of his 20th year of service
23 and his 50th birthday and shall be paid the additional 1%
24 for each such year.

25 (3) A police officer who is retired under [section 30

1 of this act](1)(c) and who was theretofore eligible at his
2 option to be retired under subsection (1)(a) or (1)(b) of
3 [section 30 of this act] but elected to serve additional
4 years shall be paid for the additional years over his
5 original eligibility at the rate prescribed in subsection
6 (2).

7 (4) A police officer who is eligible under [section 12
8 of this act] before completing 20 years of service shall
9 receive a disability retirement allowance equal to one-half
10 his average final salary.

11 (5) A police officer who is retired under [section 12
12 of this act] and who, at the time of his injury or
13 disability, was eligible at his option to be retired under
14 subsection(1)(a) or (1)(b) of [section 30 of this act] but
15 had elected to serve additional years and was then serving
16 such additional years shall be paid for the additional years
17 at the rate prescribed in subsection (2).

18 Section 32. There is a new R.C.M. section that reads
19 as follows:

20 Department to provide forms -- information from
21 employers. The department of administration shall prepare
22 such forms as it finds necessary for the employers to
23 complete to provide all the information necessary to
24 administer this act, and the cities shall give the
25 department of administration all data necessary to carry out

1 the purpose and intent hereof.

2 Section 33. There is a new R.C.M. section that reads
3 as follows:

4 Application of reserve and retirement provisions of
5 prior law. (1) As cities other than those participating in
6 the statewide police reserve fund provided for in Chapter
7 335, Laws of 1974, currently have local police reserve
8 funds, the legislature finds and declares that the law
9 regarding such funds, although in conflict with this act,
10 cannot be repealed. It is the express intention of the
11 legislature to allow two separate and distinct retirement
12 systems to exist. The first, which includes local police
13 reserve funds, applies to such cities, other than those of
14 the first and second class, which wish to adopt it. The
15 second, created by this act, applies to first and second
16 class cities, those other cities which wish to adopt it, and
17 any city which has adopted the above-mentioned statewide
18 police reserve fund.

19 (2) The following sections may not be applied in any
20 way to a city operating under the plan created by this act:
21 11-1809, 11-1819, 11-1822, 11-1823, 11-1825, 11-1826,
22 11-1827, 11-1828, 11-1829, 11-1830, 11-1834, 11-1835,
23 11-1836, 11-1837, 11-1843, 11-1844, 11-1845, and 11-1847.

24 Section 34. There is a new R.C.M. section numbered
25 82A-224 that reads as follows:

1 82A-224. Board of trustees abolished ~~functions~~ --
2 FUNCTIONS transferred. The board of trustees of the police
3 reserve fund of a city which elects to participate in the
4 municipal police officers' retirement system under [section
5 26 of this act] is abolished as of the time that the
6 transfer of the cash and securities and the certification
7 required by that section is completed. The functions of the
8 board are transferred as of the date of the election to the
9 department of administration and the board, as provided in
10 the Municipal Police Officers OFFICERS' Retirement Act.

11 Section 35. Section 11-1823, R.C.M. 1947, is amended
12 to read as follows:

13 "11-1823. Fund for payment of officers on reserve
14 lists -- tax levy. ~~For the purpose of paying the salaries of~~
15 ~~police officers who have been placed upon the reserve list of~~
16 ~~cities under this act, the city or town council or~~
17 ~~commissioners shall deposit in the fund monthly an amount~~
18 ~~equal to eleven percent (11%) of the total salaries for the~~
19 ~~preceding month paid to active police officers of that city,~~
20 ~~exclusive of overtime and payments in lieu of sick leave and~~
21 ~~annual leave.~~ Cities having such police reserve funds, not
22 cities of the first or second class, which did not elect to
23 join the statewide police reserve fund provided for in
24 Chapter 335, Laws of 1974, and which have not elected to
25 participate in the plan under [section 26 of this act] as of

1 ~~the effective date of this act and not having~~⁴ elected to
 2 ~~come within the provisions of this act~~ shall likewise
 3 deposit in the fund of that city monthly an amount equal to
 4 eleven percent (11%) of the total salaries, exclusive of
 5 overtime and payments in lieu of sick leave and annual
 6 leave, for the preceding month, paid to active police
 7 officers of that city. ~~Payments made by cities covered by~~
 8 ~~this act shall be made by the treasurer of that city to the~~
 9 ~~department of administration.~~ In case the demand against the
 10 city for its deposits in such fund shall be such that it
 11 cannot be met within the general taxing authority of that
 12 city, then and in such case an additional levy of not to
 13 exceed three (3) mills may be made until the general taxing
 14 authority be sufficient to meet the demand."

15 Section 36. Section 11-1825, R.C.M. 1947, is amended
 16 to read as follows:

17 "11-1825. Salary deduction for payment of reserve
 18 officers. The treasurer of any incorporated city which has
 19 ~~as of the effective date of this act or which hereafter may~~
 20 create a police reserve fund, shall retain from the monthly
 21 salary of all police officers upon the active list, a sum
 22 equal to six percent (6%) of the monthly compensation paid
 23 each officer for his services as such police officer,
 24 exclusive of overtime and payments made in lieu of sick
 25 leave and annual leave, the said monthly deduction from the

1 salaries of such police officers, shall be paid into the
 2 ~~police reserve fund in the department of administration or~~
 3 to the city's police reserve fund, ~~as the case may be~~ for
 4 the purpose of paying the salaries of police officers upon
 5 the reserve list."

6 Section 37. Section 11-1826, R.C.M. 1947, is amended
 7 to read as follows:

8 "11-1826. Gifts and moneys to be applied to fund. All
 9 moneys withheld from salaries of police officers for the
 10 violation of rules and regulations of such police
 11 departments, all bequests, gifts or emoluments, paid or
 12 given on account of any extraordinary service of any member
 13 of such police department, except when specifically allowed
 14 to be retained by such officer by the mayor, commissioners
 15 and chief of police, and all moneys derived from the
 16 provisions of this act, shall be placed in the police
 17 reserve fund, and transmitted promptly ~~to the department of~~
 18 ~~administration or to the board of trustees, as the case may~~
 19 be."

20 Section 38. Section 11-1834, R.C.M. 1947, is amended
 21 to read as follows:

22 "11-1834. Annual state payments to municipality with
 23 police department. At the end of each fiscal year the state
 24 auditor shall issue and deliver to the treasurer of each
 25 city and town in Montana ~~having~~ which has a police

1 department, ~~and which is not a participant in the municipal~~
 2 ~~police officers' retirement system~~ his warrant for an amount
 3 computed in the same manner as the amount paid (or that
 4 would be paid if an existing relief association met the
 5 legal requirements for payment) to cities and towns for fire
 6 department relief associations pursuant to section 11-1919,
 7 R.C.M. 1947."

8 Section 39. Section 11-1836, R.C.M. 1947, is amended
 9 to read as follows:

10 "11-1836. Credit of payments to police reserve fund --
 11 annual report of board. Every city or town, having a police
 12 reserve fund ~~established under the provisions of the~~
 13 ~~Metropolitan Police Law~~, shall deposit said payment ~~with the~~
 14 ~~department of administration or~~ to the credit of the police
 15 reserve fund of such city or town, ~~as the case may be.~~ THE
 16 FUNDS DEPOSITED IN THE POLICE RESERVE FUND OF A CITY OR TOWN
 17 AFTER JULY 1, 1977, ARE LIMITED TO THE INVESTMENTS IN 73-310
 18 EXCEPT THAT THE FUNDS MAY NOT BE INVESTED IN COMMON STOCKS.
 19 HOWEVER, THESE FUNDS MAY BE INVESTED UNDER THE PROVISIONS OF
 20 79-311. The board of trustees of each police officer's
 21 reserve fund shall on or before the first day of April of
 22 each year report to the state auditor as to the financial
 23 condition of their fund. Payments provided for in this
 24 section and the preceding two (2) sections (11-1834,
 25 11-1835) are in addition to those provided for in section

1 11-1823."

2 Section 40. Section 11-1844, R.C.M. 1947, is amended
 3 to read as follows:

4 "11-1844. Payment of police reserves. (1) Whenever
 5 any policeman or officer shall become transferred from the
 6 active list of police officers of any city to the reserve
 7 list of that city, he shall thereafter be paid in monthly
 8 payments from the funds ~~in this act provided for city's~~
 9 police reserve fund, as follows:

10 (a) For a police officer eligible for the reserve list
 11 after twenty (20) years of service under subsection (1) of
 12 section 13 [11-1843] of this act, and who does not elect to
 13 serve any additional years as an active police officer; or
 14 for a police officer eligible for the reserve list after
 15 twenty (20) years of service under subsection (2) of section
 16 13 [11-1843] of this act, who has reached his fiftieth year,
 17 and who does not elect to serve any additional years as an
 18 active police officer; or a police officer who becomes
 19 eligible by reason of injury or disability under subsection
 20 (4) of section 13 [11-1843] of this act, before reaching
 21 twenty (20) years of service; or for a police officer placed
 22 upon the reserve list by reason of reaching his sixty-fifth
 23 birthday prior to reaching twenty (20) years of service: a
 24 sum equal to one-half (1/2) the base salary, excluding
 25 overtime and payments in lieu of sick leave and annual leave

1 he was receiving as an active officer computed on the
2 highest salary received in any one month during the last
3 year of active service.

4 (b) For a police officer eligible for the reserve list
5 after twenty (20) years who elects to serve additional
6 years, the payment provided in subsection (a) of subsection
7 (1) of this section, to which shall be added an additional
8 one percent (1%) of such sum per year of additional service,
9 up to a maximum of sixty percent (60%) of the base salary,
10 excluding overtime and payment in lieu of sick leave and
11 annual leave, he was receiving as an active officer computed
12 on the highest salary received in any one (1) month during
13 the last year of active service. For the purposes of this
14 act, a police officer whose eligibility depends upon
15 subsection (2) of section 13 [11-1843] of this act, and who
16 completes twenty (20) years of service before reaching the
17 age of fifty (50) years, shall be deemed to have elected to
18 serve additional years for each year between the completion
19 of his twentieth year of service and his fiftieth birthday,
20 and he shall be paid the additional one percent (1%) for
21 each such year.

22 (c) A policeman who is placed upon the reserve list by
23 reason of reaching his sixty-fifth birthday, but who was
24 theretofore eligible at his option to be placed upon such
25 reserve list under subsections (1) or (2) of section 13

1 [11-1843] of this act, but elected to serve additional years
2 after such earlier eligibility shall be paid for such
3 additional years over his original eligibility at the same
4 rate as is provided in subsection (a) of subsection (1) of
5 this section.

6 (d) A police officer placed on the reserve list by
7 reason of injury or disability under subsection 4 of section
8 13 [11-1843] of this act, and who, at the time of such
9 injury or disability was eligible at his option to be placed
10 on the reserve list under subsections (1) or (2) of section
11 13 [11-1843] of this act, but had elected to serve
12 additional years, and was then serving such additional years
13 shall be paid for such additional years over his original
14 eligibility at the same rate as is provided in subsection
15 (a) of subsection (1) of this section.

16 (2) Upon the death of any police officer on the active
17 list or reserve list of any city, his surviving spouse, if
18 there be one, shall, as long as such spouse remains the
19 surviving spouse, be paid from the police reserve fund, a
20 sum equal to one-half (1/2) the base salary, excluding
21 overtime and payments in lieu of sick leave or annual leave
22 he was receiving as an active officer computed on the
23 highest salary received in any one (1) month during the last
24 year of active service prior to the date of his demise or
25 prior to the date he passed to the reserve list. If the

1 officer leaves dependent minor child or children, then upon
 2 his death if he leaves no surviving spouse, or upon the
 3 death or remarriage of the surviving spouse, then his
 4 surviving dependent minor child or children, collectively if
 5 there be more than one (1) dependent minor child surviving,
 6 shall be paid the same monthly payments as are herein
 7 provided to be paid to the surviving spouse, until the minor
 8 child or children reach the age of eighteen (18) years or
 9 shall have married. Payments to be made to such minor child
 10 or children shall be paid to the duly appointed, qualified
 11 and acting guardian of the child or children for the use of
 12 such minor or minors, until such minor shall have reached
 13 the age of eighteen (18) years or shall have married and in
 14 case there is more than one (1) minor child, upon each child
 15 reaching the age of eighteen (18) years the pro rata
 16 payments to that child shall cease and shall be made to the
 17 remaining minor child or children until the youngest child
 18 reaches the age of eighteen (18) years or is married."

19 Section 41. Severability. If a part of this act is
 20 invalid, all valid parts that are severable from the invalid
 21 part remain in effect. If a part of this act is invalid in
 22 one or more of its applications, the part remains in effect
 23 in all valid applications that are severable from the
 24 invalid applications.

25 Section 42. Repealer. Sections 11-1821.1, 11-1824,

1 11-1838, 11-1839, 11-1840, 11-1841, 11-1842, 11-1848,
 2 11-1850, 82A-222, and 82A-223, R.C.M. 1947, are repealed.

-End-